

MAY 31 2005

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	CAUSE NO.: A-1617
DEPARTMENT OF INSURANCE,)	
)	
PETITIONER,)	
)	FINDINGS OF FACT,
vs.)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
STEVE F. JANSEN,)	ORDER
)	
RESPONDENT.)	

This matter came on for hearing on the 24th day of May, 2005, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Keri Schechinger. Steve F. Jansen ("Respondent") was not present and was not represented by counsel for this matter. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent was a licensed Nebraska insurance producer whose current registered address with the Department was 89046 557th Avenue, Fordyce, NE 68736 at all times relevant to this matter. Respondent obtained his license May 6, 2001.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. On or about April 26, 2005, the Petition and Notice of Hearing were served upon Respondent by certified mail, return receipt requested, at his address of record. On or about April 30, 2005, Respondent received the Petition and Notice of Hearing as evidenced by the attachment to Exhibit 1.

4. Petitioner requested the hearing officer take notice of four prior administrative actions in Cause Numbers A-1521, A-1577, A-1595, and A-1605. These actions relate to Respondent's failure to respond to Department inquiries in consumer complaint files. In Cause No. A-1605, Respondent's insurance producer's license was revoked. (Ex. 2). Thus, the purpose of this administrative hearing is to determine whether Respondent's conduct as alleged in this action is sufficient for additional penalties to be recommended.

5. On or about October 23, 2002, Respondent sold a specified benefit hospital and surgical expense plan and discount health plan to Darlene Moore representing said plans to be major medical health insurance. Darlene Moore testified via affidavit. (Ex. 5). These plans were intended to replace a major medical health insurance policy covering Moore at that time. Moore reported pre-existing conditions to Respondent. Respondent filled out the application form for Moore and did not report the medical conditions to the insurer at the time of application. Moore noted that the policy, when issued, did not contain references to her pre-existing medical conditions and questioned Respondent about it. Respondent assured Moore that she was "fully insured." In reliance on Respondent's statement, Moore canceled her prior major medical health insurance policy. Subsequently, the new insurer notified Moore that it would not cover her pre-existing conditions or she could purchase a rider for \$4,296.00 annually to cover the conditions. The hearing officer finds that Respondent's conduct related to Moore's

insurance affairs violates *Neb. Rev. Stat.* §44-1525(1)(a) and (f), §44-4059(1)(b), (g), and (h).

6. Further, Respondent represented to Moore at the time he solicited the sale that all of the physicians and hospitals near her home participated in the plan's discounted rates. This statement was false. The physicians and hospitals did not participate in the discount program until April 2004, more than seventeen months after Moore purchased the plan. (Ex. 5). The hearing officer finds that Respondent's misrepresentation to Moore violates *Neb. Rev. Stat.* §44-1525(1)(f), §44-4059(1)(b), (g), and (h).

7. On or about November 13, 2002, Respondent sold a specified benefit hospital and surgical expense plan and discount health plan to Myrna Arnburg representing said plans to be major medical health insurance. Myrna Arnburg testified via affidavit. (Ex. 7). Arnburg was covered by a major medical health insurance policy at the time of Respondent's solicitation and wanted to remain covered under a major medical health insurance policy. In reliance on Respondent's representation that this plan was a major medical health insurance policy, Arnburg purchased the plans and later incurred unpaid medical expenses. (Ex. 7). The hearing officer finds that Respondent's conduct in the handling of Arnburg's insurance affairs violates *Neb. Rev. Stat.* §44-1525(1)(a) and (f), §44-4059(1)(b), (g), and (h).

8. On or about May 14, 2003, Respondent sold a specified benefit hospital and surgical expense plan and discount health plan to Leta White representing said plans to be major medical health insurance. Leta White testified via affidavit. (Ex. 6). White was covered by a major medical health insurance policy at the time of Respondent's solicitation and wanted to remain covered under a major medical health insurance policy. In reliance on Respondent's representation that this plan was a major medical health

insurance policy, Arnborg purchased the plans and found that neither her dentist, doctor, nor other similar providers near her home participated in the plan Respondent sold to her. (Ex. 6). White repeatedly attempted to contact Respondent and he did not respond to her calls or letter. After White filed a complaint with the Department, Respondent tried to repay White a portion of her premium. The hearing officer finds that Respondent's conduct with regard to White's insurance affairs violates *Neb. Rev. Stat. §44-1525(1)(a)* and (f), §44-4059(1)(b), (g), and (h).

9. On or about November 30, 2003, Respondent sold a specified benefit hospital and surgical expense plan and discount health plan to Theresa Kennedy representing said plans to be major medical health insurance. Theresa Kennedy testified via affidavit. (Ex. 8). Kennedy was covered by a major medical health insurance policy at the time of Respondent's solicitation. Kennedy reported a pre-existing condition to Respondent. Respondent said that because the most recent treatment for the condition was over one year old, the condition would be covered. In February 2004, Kennedy had surgery related to her pre-existing condition. The insurer refused to pay benefits for the surgery and charged Kennedy an addition \$744.00 in premium to place a rider on her policy. Kennedy's surgical expenses were not paid by the insurer. (Ex. 8). The hearing officer finds that Respondent's conduct as it relates to Kennedy's insurance affairs violates *Neb. Rev. Stat. §44-1525(1)(a)* and (f), §44-4059(1)(b), (g), and (h).

10. On or about December 7, 2004, two Consumer Affairs Division employees met with Respondent to discuss a consumer complaint. During that meeting, Respondent admitted that he knew his conduct was wrong, but blamed his actions on the training he received from his former employer.

11. Based on the paragraphs above, Respondent violated the Unfair Insurance Trade Practices Act on nine occasions. The hearing officer finds that Respondent's actions are committed not only in conscious and flagrant disregard of the Unfair Insurance Trade Practices Act, *Neb. Rev. Stat. §44-1524 (1)*, but also have been committed with such frequency as to indicate a general business practice to engage in that type of conduct. See *Neb. Rev. Stat. §44-1524 (2)*. Pursuant to *Neb. Rev. Stat. §44-1529*, a finding that the violations were committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act allows the Department to order a penalty of not more than fifteen thousand dollars for each violation, not to exceed an aggregate penalty of one hundred fifty thousand dollars.

CONCLUSIONS OF LAW

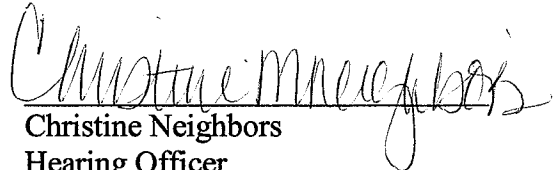
1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-4041 et seq.* Said jurisdiction is retained over former licensees for three years following the termination of such license pursuant to *Neb. Rev. Stat. §44-4059(5)*.
2. The Department has personal jurisdiction over Respondent.
3. Respondent repeatedly violated *Neb. Rev. Stat. §44-1525 (1)(a)* and (f), *§44-4059 (1)(b)*, (g), and (h).

RECOMMENDED ORDER

Respondent's insurance producer's license was revoked in Cause No.: A-1605. Based on the Findings of Fact and Conclusions of Law, it is recommended that these facts and violations be considered if Respondent should ever seek to reapply for an insurance producer license.

Dated this 31st day of May, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Christine Neighbors
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Steve F. Jansen, Cause No.: A-1617.

Dated this 31st day of May, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 89046 55th Avenue, Fordyce, NE 68736 by certified mail, return receipt requested on this 1st day of ~~May~~ ^{June}, 2005.

